

1 **THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 THE ARIZONA DEPARTMENT OF
10 TRANSPORTATION TO UPGRADE A
11 CROSSING OF THE UNION PACIFIC
12 RAILROAD AT GILA BEND-BUCKEYE
13 HIGHWAY IN MARICOPA COUNTY, ARIZONA,
14 AAR/DOT NOS. 741 769X AND 922 558V.

DOCKET NO. RR-03639A-05-0327

DECISION NO. 67976

OPINION AND ORDER

10 DATE OF HEARING: June 8, 2005

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

13 APPEARANCES: Mr. Timothy Sabo, Staff Attorney, Legal Division, on
14 behalf of the Utilities Division of the Arizona
Corporation Commission.

15 **BY THE COMMISSION:**

16 On May 4, 2005, the Arizona Department of Transportation ("ADOT") submitted to the
17 Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the
18 approval of an agreement between ADOT and the Union Pacific Railroad Company ("Railroad") to
19 upgrade the Railroad's crossing at the Gila Bend-Buckeye Highway in Maricopa County, Arizona, at
20 AAR/DOT Nos. 741 769X and 922 558V ("Application").

21 On May 9, 2005, by Procedural Order, the Application was set for a hearing and ADOT was
22 ordered to notify any interested party of the Application and the hearing.

23 On May 16, 2005, ADOT certified that notice had been provided pursuant to the terms of the
24 Procedural Order.

25 On June 8, 2005, a full public hearing was held before a duly authorized Administrative Law
26 Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the
27 matter was taken under advisement pending submission of a recommended Opinion and Order to the
28 Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On May 4, 2005, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad to convert the existing two-way crossing of the Railroad at the Gila Bend-Buckeye Highway (State Rte. 85) with existing flashing lights and automatic gates into a two lane northbound only crossing with automatic flashing lights and opposing gate arms and to construct a new two lane southbound only crossing with automatic flashing lights and opposing gate arms where the Railroad tracks cross State Rte. 85 in Maricopa County, Arizona at AAR/DOT Nos. 741 769X and 922 558V.

2. This construction is in preparation for the construction of a grade-separated crossing in the future.

3. On May 17, 2005, ADOT filed certification that it had provided notice by registered U.S. mail of the Application and hearing thereon.

4. A hearing was held as scheduled on June 8, 2005.

5. The Application provides for the Railroad to reconfigure the existing two-way crossing into a two lane northbound only crossing and for the construction of a new two lane southbound only crossing, both with automatic flashing lights and opposing gate arms.

6. Staff testified that the cost apportionment for the construction of the crossing upgrade as provided in the Application was proper.

7. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Installation of the crossing upgrade is necessary for the public's convenience and

1 safety.

2 4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as
3 recommended by Staff.

4 5. After installation of the crossing, the Railroad should maintain the crossing in
5 accordance with A.A.C. R14-5-104.

6 **ORDER**

7 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application
8 is hereby approved.

9 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the
10 crossing upgrade as described in the Application within fifteen months from the effective date of this
11 Decision.

12 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the
13 Commission, in writing, within ten days of both the commencement and the completion of the
14 crossing upgrade, pursuant to A.A.C. R14-5-104.

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IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad Company shall maintain the crossing in compliance with the A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER

COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 18th day of July, 2005.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mlj

1 SERVICE LIST FOR:

UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.

RR-03639A-05-0327

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